

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 GIOVANNI T. BOLOTAOLO,

12 Plaintiff,

13 v.

14 THE DIVISION OF CHILD SUPPORT,
15 OLYMPIA, WA,

16 Defendant.
17

No. 2:18-cv-0940-JAM-KJN PS

ORDER

18 Plaintiff Giovanni Bolotaolo, who proceeds in this action without counsel,¹ has requested
19 leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 2.) After carefully
20 reviewing plaintiff's complaint, the court concludes that the action should be transferred to the
21 United States District Court for the Western District of Washington.

22 The federal venue statute provides that a civil action "may be brought in (1) a judicial
23 district in which any defendant resides, if all defendants are residents of the State in which the
24 district is located; (2) a judicial district in which a substantial part of the events or omissions
25 giving rise to the claim occurred, or a substantial part of property that is the subject of the action
26 is situated; or (3) if there is no district in which an action may otherwise be brought as provided in

27 _____
28 ¹ This case proceeds before the undersigned pursuant to Local Rule 302(c)(21).

1 this section, any judicial district in which any defendant is subject to the court's personal
2 jurisdiction with respect to such action." 28 U.S.C. § 1391(b).

3 In this case, plaintiff seeks to vacate a child support order sought and/or enforced by the
4 Division of Child Support in Olympia, Washington based on various alleged federal
5 constitutional violations. (See generally ECF No. 1.) For purposes of 28 U.S.C. § 1391(b)(1),
6 defendant does not reside in this district, because Olympia, Washington is located in the Western
7 District of Washington. Additionally, for purposes of 28 U.S.C. § 1391(b)(2), the child support
8 order was obtained in the Western District of Washington and presumably pertains to a child who
9 resides in the Western District of Washington. Even though plaintiff presently resides in
10 Sacramento, California, in the Eastern District of California, a plaintiff's residence is not relevant
11 in determining proper venue. Furthermore, 28 U.S.C. § 1391(b)(3) does not apply in this case,
12 because there is another district in which this action may be brought—the Western District of
13 Washington.

14 "The district court of a district in which is filed a case laying venue in the wrong division
15 or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or
16 division in which it could have been brought." 28 U.S.C. § 1406(a). Here, filing in this district
17 appears to have been an inadvertent error by a *pro se* plaintiff unfamiliar with the procedural rules
18 of venue. As such, the court finds that transfer in lieu of dismissal is appropriate.

19 Therefore, the court transfers this action to the Western District of Washington. In light of
20 the transfer, the court declines to rule on plaintiff's pending motion to proceed *in forma pauperis*,
21 which will be resolved by the Western District of Washington. In transferring this action, this
22 court also expresses no opinion regarding the merits of plaintiff's claims, including whether
23 subject matter jurisdiction exists over plaintiff's claims.

24 Accordingly, IT IS HEREBY ORDERED that:

- 25 1. The action, including plaintiff's pending motion to proceed *in forma pauperis*, is
26 TRANSFERRED to the United States District Court for the Western District of
27 Washington.
28

